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and for that reason Mr. Woodruff's careful and discriminating use of such articles in his notes is most valuable. The reviewer has had occasion to refer to this in his criticism of a new text book which also appears in this number of the REVIEW. The same appreciation is applicable to a case-book.

The new edition has unquestionably improved this standard collection and added to its effectiveness for the purpose for which it is so excellently designed.

R. J. B.

THE HISTORICAL DEVELOPMENT OF CODE PLEADING IN AMERICA AND ENGLAND. Charles M. Hepburn. Anderson & Co., Cincinnati. 1897.

This is a reprint, or reissue, of Mr. Hepburn's invaluable treatise on the historical development of the systems of pleading now in use in England and many of the American States. It includes a discussion of the causes which led to the overthrow of common law pleading; of the adoption of the New York Code of Civil Procedure and the spreading of the new system, with various modifications, across the United States; of the reforms in England, culminating in the Judicature Act of 1873; followed by a critical discussion of the points of agreement and disagreement in the two systems American and English, the former resting on positive statutes and the latter on rules of court. In this connection it may be noted that modern writers on procedure are inclined to favor the elastic English rather than the rigid American system and that New Jersey, the last convert to the reformed system, has in its Practice Act of 1912 followed Connecticut in leaving much to the rules of court, the direction that future reforms will probably take. In pointing out the progress of civil procedure in the nineteenth century, and there has been real progress, the author has dealt perhaps somewhat too gently with the short-comings of the code system, the fearful verbosity of code complaints and the new crop of technicalities connected with the joinder and splitting of causes of action, the code demurrer and the general denial. With these and other abuses the twentieth century must deal.

W. L. H.

THE UPAS TREE. Robert McMurdy. F. J. Schulte & Co., Chicago. B. F. Stevens & Brown, London.

Another writer has set his pen to work a revulsion of the social conception of the necessity and justification of capital punishment. He has chosen for his channel of communication, the novel; for his setting and necessary instrumentalities, the law and its administration; and for his fictional framework, the "ancient and eternal triangle," the man, the wife, and the woman.

The novel is quite readable, the action quick, the incidents varied and decidedly dramatic. Yet one does not find himself, as he follows the story, becoming intimate and sympathetic with the characters intended to attract him, nor hostile to those which should merit his contempt. They seem formal semi-automatons which the author has set up to sustain or animate his motif. The incidents, through which these characters move, are planned to aid, and operate with a mathematical precision in impelling, the working of an inflexible inanimate machinery of law; and at this point the author's depiction shows not a little skill in "drawing the court and jury." The extended confidential relations of the attorney and his client whose death occurs during dramatic and compromising associations with the former; the attorney's secret hobby in the study of poisons, his unexplained haste in securing cremation of the body according to the directions of a will favorable to himself are the incidents upon which the circumstantial case of the prosecution (animated by the venom and hate of "the woman rejected") is founded, and results in the conviction and sentence of death which the drunken hangman is prevented from inflicting only by main force when, melodramatically, the confession of the true culprit is disclosed.

When one has finished he is somewhat at a loss to know why the author has so consistently presented an impregnable case against his hero, reserving his proof and even suggestion of innocence until the last moment, while its total absence throughout has precluded the sympathy of the reader, and its disclosure so late in the plot hardly brings a reactive compensation. The story closes with a "confession," the gist of which is the arguments against capital punishment. While the work is weighted with assumptive settings and arguments so common in fictional writings, it will, nevertheless, furnish an enjoyable evening's reading, and lead the legal reader through a familiar field, and one doubtless best adapted to present most strongly the author's "case against capital punishment."

J. C. A.

THE VALIDITY OF RATE REGULATIONS; STATE AND FEDERAL. Robert P. Reeder. T. & J. W. Johnson Co., Philadelphia. 1914. Pp. 440, xv.

No doubt can exist that this volume is a noteworthy and timely contribution to the literature of rate making. While the country at large was waiting last year for the decision of the Supreme Court in the Minnesota Rate Cases, it was impressed anew upon all who seriously considered the matter how important a question this business of rate regulation and public utility valuation had become. The country seems launched upon an era of regulatory measures; good will, for the most part, prevails between government and utility, with the banker keeping a watchful eye upon both, hoping that good will, in another and different sense, may receive the serious and enlarged consideration the descendants from the Florentine banc believe it should. The *bona fide* test of the theory of regulation demands a careful and scientific study of the soundness of proposed theories of rate making and property valuation. This problem is essentially one bringing the economist, the engineer and the lawyer into working harmony, and the country will do well, in the coming days of travail, to look with considerable indulgence upon the poor, much-beset lawyer who it forced to be at once not only lawyer but expert in economic theory and engineering practice.

So far as a lawyer may judge, Mr. Reeder has prepared a treatise which successfully embodies the three essential fields to be considered in rate making. Always a lawyer, he puts economic theory to the test of judicial decision after argument and evidence, but as an economist he has not failed to point out unsoundness of decision where error has seemed to prevail. Where is the balance to be struck? None can speak with absolute authority. But earnest study and thought have equipped the author to present forcibly and clearly the trend of case law and science to date, and to forecast the future course.

The literature upon the subject is scattered. Few serious treatises exist. It is mostly found in shorter articles dealing with particular phases of the subject; printed in scattered pamphlets and without collation or discriminating selection. The present volume, in the compendious notes, has brought under one cover the best thought in these pioneers in the field of rate law, and given us a summarized analysis of them at their best. But the author's work has not been neglectful of original case discussion and criticism. On the contrary he has examined with care apparently all the cases involving the problems of rates, and keenly analyzed them and estimated their effect.

One is particularly struck with the excellent opening chapter upon the commerce clause, which is discussed in view of the new light shed by the Minnesota Cases. It is manifestly germane to a discussion of the validity of rates that the dividing line between interstate and local commerce be clearly marked. Separate valuation of the respective properties devoted to each must be made; separate estimation of probable effect upon the returns from each is necessary. It follows that in all cases in which a railroad or other utility